

**BEFORE THE
ILLINOIS COMMERCE COMMISSION**

Joint Petition for Resolution of Disputes)	
Relating to Billing Performance)	Docket No. 03-0769
Measurements)	

MCI'S INITIAL COMMENTS ON DISPUTED ISSUES

WorldCom, Inc. d/b/a MCI ("MCI"), pursuant to Notice issued by the Administrative Law Judge ("ALJ") March 26, 2004, hereby tenders its Initial Comments on Disputed Issues.

Introduction

As described in the February 24, 2004 "Amended Joint Petition For Expedited Resolution Of Disputes Relating To Performance Measurements" ("Amended Joint Petition"), although the parties were able to resolve the majority of the issues arising out of the Billing Measure Performance Measure Review process and the Third Six-Month Performance Measure Review Process, there were several upon which the parties were unable to reach resolution. MCI submits that for the reasons discussed below, the Commission should make the requested changes.

Discussion

The disputed issues needing Commission resolution were set forth at pages 6-8 and in Attachments A and B of the Amended Joint Petition. Generally, the issues fell into two categories: (1) disputes regarding currently-effective performance measurements ("PMs"), and (2) disputes regarding proposed PMs. For ease of reference,

MCI includes its discussion of each disputed issue immediately following a recitation of the issue.

A. Third Six-Month Review Disputed Issues.

Disputes on Currently Effective Performance Measurements

Disputed Issue 1: Deletion of PM MI 11 (Average Interface Outage Notification).

SBC Midwest has proposed to delete PM MI 11. MCI opposes deletion.

MCI's Discussion:

MCI opposes deletion because SBC has not explained why this measurement is not useful to ensure that CLECs receive outage information in a timely manner. This measure also exists in Verizon and BellSouth regions because it is important for CLECs to know that ILEC interface problems are keeping CLECs from accessing ILEC systems and alternative uses of personnel time and escalation of critical interface problems may be required. SBC should not be allowed to eliminate metrics simply because it believes they show no problem for the time being.

One reason for the existence of the PMs is to assess SBC's compliance with its various anti-backsliding/remedy plans. Thus, it was certainly contemplated that while SBC might be meeting a particular metric at the time of 271 approval, there would still need to be a mechanism to ensure that that any such satisfactory performance level be maintained well into the future. SBC is now trying to scuttle the CLECs' basic "insurance plan" for continued acceptable performance less than a year after obtaining permission for long distance market entry. In the most recent six-month review, MCI agreed to the deletion of many metrics because the information captured by them was duplicative or not critical for some other reason. In this case, there is no duplication or

any lesser need for CLECs to be timely notified of outages that delay their abilities to serve customers.

Disputed Issue 2: Increase in the UNE-P disaggregation benchmark in PM 13 (Order Process Percent Flow Through) from 95% to 98%.

All benchmarks in PM 13 proposed by SBC Midwest were agreed-to by all CLECs with the exception of the UNE-P benchmark. SBC Midwest has agreed to a benchmark of 95% for the UNE-P disaggregation. MCI and McLeod have proposed a benchmark of 98% for UNE-P.

MCI's Discussion:

MCI opposes giving up the current parity benchmark for UNE-P orders unless the Commission sets a 98% benchmark that reflects SBC's retail performance on whether orders that were designed to flow through actually *do* flow through. By agreeing to a 95% benchmark for UNE-P alone, MCI would be agreeing to accept decidedly worse performance by SBC in terms of orders falling out to manual handling and therefore becoming significantly more prone to provisioning errors due to the manual handling of the SBC-created service order. SBC's order accuracy metric is seriously flawed for several reasons, as has been revealed in the last two collaboratives. Most significantly, SBC's order accuracy metric does not start with the CLEC-provided Local Service Request ("LSR"), but treats the manually-entered SBC service order (generated after the LSR has fallen out of electronic handling) as the baseline source for assessing order accuracy.

Even with an effective accuracy metric, improving flow through levels *before the fact* is critical to ensuring that customers are not affected by errors in obtaining the services they order in the first place. Further, SBC may claim that other ILECs, such as Verizon, have a 95% flow-through standard for UNE-P orders, but Verizon aggregates all

UNE products under the 95% benchmark. UNE-P usually has higher flow through rates than any other UNE product. SBC should be able to achieve very high UNE-P flow through rates when UNE-P is measured alone, rather than in aggregation with other UNE products. The Commission should either require SBC to leave the current standard at parity with SBC's Plain Old Telephone Service ("POTS"), or to implement a 98% flow-through standard for UNE-P orders. This metric provides a snapshot view of what SBC has represented to CLECs is the expected flow through rate for such orders, so it is not unreasonable to have an appropriately high benchmark.

Disputed Issue 3: Increase in benchmark for PM 100 (Average Time of Out of Service for LNP Conversions) from One Hour to Three Hours.

SBC Midwest has proposed to increase this benchmark to address expected impacts of Wireless Number Portability. MCI does not agree to increase the benchmark.

MCI's Discussion:

The Commission should require SBC to provide sufficient staffing, and to implement and maintain systems robust enough for handling Local Number Portability ("LNP") volumes regardless of whether increased volumes come from increased wireline or wireless activity. Increased activity is no reason to lower the standard for outages caused by SBC in LNP conversions.

During the collaboratives, SBC attempted to argue that the FCC's November 2003 requirement of a 2 hour and 30 minute wireless porting interval was reason to expand this SBC-caused outage interval.¹ However, the FCC was addressing a planned

¹ See FCC's October 7, 2003 (CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues) and November 10, 2003 (Carriers' Request for Clarification of Wireless Portability Issues) Orders in CC Docket No. 95-116, *In the Matter of Telephone Number Portability*. In fact, for wireline-to-wireline ports, the FCC adopted a four-day interval that had already been established by the North American Numbering

outage that occurs on the due date for porting the customer over to a new carrier, not an outage caused because the timing for the porting was premature (before the gaining carrier was ready), or because of any other SBC-caused problems with completing the porting on the due date and time. For loops with LNP, outages during the allowed cutover window should not be covered by this metric, but outages outside that cutover window most certainly should and these should not be of an unacceptable duration of more than one hour.

Disputed Issue 4: Deletion of PM 101 (Percent Out of Service <60 Minutes).

SBC Midwest proposed deletion of PM 101. MCI opposes deletion.

MCI's Discussion:

MCI believes that it is important for the Commission to require SBC to maintain this measure with remedies, but *not* increase the permissible 60 minutes of outage time to 3 hours per the reasons expressed above in Disputed Issue 3. SBC has proposed this increase in acceptable outage time in the event that this measure is retained but PM 100 is deleted. MCI can accept deleting PM 100, but only if PM 101 is retained at its < 60 minutes benchmark. The Commission should set the remedies for the retained metric at high since it is critical to customer retention that number porting go smoothly and without resulting in unexpected outages.

Disputed Issue 5: Deletion of PM 113 (Percentage of Electronic Updates that Flow Through the Update Process Without Manual Intervention).

Councils LNP Selection Working Group in 1997. This means for this metric, when 1-5 loops were ported, SBC had four days to arrange for the LNP to be working when the loop was due to be installed on a due date or at a coordinated conversion time. SBC's proposal -- based on the wireless porting interval -- is no more relevant to this metric than saying that SBC-caused LNP outages of four days were acceptable under the old wireline porting standard.

SBC Midwest proposed deletion of PM 113. MCI opposes deletion.

MCI's Discussion:

As CLECs transition more to using UNE loops and on-net service delivery, they must depend on SBC's accurate updating of customer databases. If SBC's systems cause more Directory Assistance ("DA") update orders to fall to manual handling by SBC's ordering staff, the likelihood increases that this crucial information could be inaccurate in the database. SBC has not supplied any valid reason for asserting that this metric is no longer necessary.

Disputed Issue 6: Revisions to PM 117 (Percent NXXs Loaded and Tested Prior to the LERG Effective Date) to expand the scope.

MCI proposed revisions to PM 117. SBC Midwest opposes the changes.

MCI's Discussion:

In discussing SBC's initial proposal to add language in the exclusion section of this metric to comply with a BearingPoint finding in the OSS test that unlisted exclusions were being taken, MCI learned that SBC was not implementing PMs 117 and 118 properly. Specifically, MCI discovered that SBC was proposing only to cover *new and additional* NXXs and not "rehomed" (moved from association with one switching rate center to another) NXXs. MCI also found that SBC was excluding failures to meet the Local Exchange Routing Guide ("LERG") effective date on the basis that MCI had not provided certain information, which might have impeded testing by the due date, but should not have justified a late NXX loading. CLECs can quickly provide the testing numbers and other requirements SBC requests after LERG loading. However, if the

LERG is not timely updated, it can take an unacceptably extended period of time to correct the loading issue, which impedes new service plans to the extent that the LERG updates are related to new NXX requests or affect existing service.

Delineated below are the exclusions that SBC was proposing, but now is attempting to drop as MCI proposes changes to them:

- Requests from CLECs where no signed interconnection agreement exists.
- Requests from CLECs where their infrastructure is not complete preventing us from performing the appropriate testing to establish the NXX.
- Requests from CLECs where an appropriate test number has not been provided to perform required testing to establish the NXX.
- Requests for Code Activation Notification (CAN) received on or after the LERG Effective Date.
- Requests for Code Activation Notification (CAN) to disconnect NPA-NXX.

SBC claims that it will still apply these exclusions, because SBC asserts that they are part of the process, but MCI disagrees. MCI believes that the existence of these exclusions is far from obvious, since they are not stated in the PM, and MCI notes that several of the exclusions would excuse untimely updates, the measurement of which was the point of the PM. The Commission should not countenance SBC's position that it can unilaterally deem that unstated exclusions exist in a metric.

Instead of permitting SBC to continue to apply exclusions that are not identified in PM 117, the Commission should adopt the modified version of PM 117, proposed by MCI and attached hereto as **Exhibit 1**, which better represents the exclusions that are in line with the intent of the metric. MCI also proposes that the Commission clarify the metric language to make clear that NXX rehomes are included, as this is the main area in which MCI has previously experienced problems with NXX loading by LERG effective date.

Disputed Issue 7: Revisions to PM 118 (Average Delay Days for NXX Loading and Testing) to expand the scope.

MCI proposed revisions to PM 118. SBC Midwest opposes the changes.

MCI's Discussion:

MCI refers the Commission to the discussion and proposal set forth in MCI's discussion of Disputed Issue 6. MCI's proposed modified version of PM 118 is attached hereto as **Exhibit 2**.

Disputed Issue 8: Addition of remedies to PM CLEC BLG-4 (Accuracy of Rate Table Updates).

MCI and TDS proposal. SBC Midwest opposes the addition of remedies to this diagnostic measure.

MCI's Discussion:

MCI believes that in light of the many billing accuracy issues raised by CLECs in the Illinois 271 proceedings (both before this Commission and at the FCC), it is crucial that this metric be remedied. SBC may claim that its other (unremedied and inadequate) billing accuracy metric (PM 14) covers billing accuracy problems, but the new rate table metrics -- PM CLEC BLG-4 (discussed here) and PM CLEC BLG-5 (discussed in Disputed Issue 9) -- would provide SBC with a much stronger incentive to prevent billing errors from escalating to large volumes. PM 14 is a flawed metric to begin with, and even if replaced as discussed in Disputed Issue 10 below, would only capture problems with billing accuracy *after* these problems have led to large adjustments being made. Because billing issues consume tremendous CLEC resources to correct once they have occurred, MCI proposes that the remedies for PM CLEC BLG-4 should be high and the standard set at 98% accuracy.

Disputed Issue 9: Revisions to PM CLEC BLG-5 (Rate Table Correction Timeliness) to add remedies.

MCI and TDS proposal. SBC Midwest opposes the addition of remedies to this diagnostic measure.

MCI's Discussion:

For reasons similar to those expressed on Disputed Issue 8, MCI believes that CLEC BLG-5 should be remedied, rather than simply diagnostic. It is important that rate tables be adjusted promptly when errors are brought to SBC's attention so that such errors do not go on proliferating month after month, causing further problems both for CLECs who are aware of the rate table errors, and those as yet unaware of the rate table discrepancies. This metric also should be remedied at the highest level with a benchmark of 100% of errors corrected before the next billing cycle.

Disputes on Proposed Performance Measurements

Disputed Issue 10: Addition of, or an implementation schedule for, a new Billing Accuracy performance measure.

MCI and TDS Metrocom are proposing a Billing Accuracy performance measure that will assess billing accuracy by determining the percent of total billed amount resulting from adjustment activity. SBC Midwest opposes the implementation of this performance measure.

MCI's Discussion:

In past 271 orders, the FCC has detailed why it is crucial that ILECs demonstrate that they have met Checklist Item 2 by providing CLECs with two essential billing functions: (i) complete, accurate and timely reports on the service usage of competing carriers' customers and (ii) complete, accurate and timely wholesale bills. In the Verizon Pennsylvania 271 Order², the FCC held that:

² See *Verizon Pennsylvania 271 Order*, Memorandum Opinion and Order, 16 FCC Rcd 17419, ¶ 22-23 (2001). ("Verizon Pennsylvania 271 Order").

Inaccurate or untimely wholesale bills can impede a competitive LEC's ability to compete in many ways. First, a competitive LEC must spend additional monetary and personnel resources reconciling bills and pursuing bill corrections. Second, a competitive LEC must show improper overcharges as current debts on its balance sheet until the charges are resolved, which can jeopardize its ability to attract investment capital. Third, competitive LECs must operate with a diminished capacity to monitor, predict and adjust expenses and prices in response to competition. Fourth, competitive LECs may lose revenue because they generally cannot, as a practical matter, back-bill end users in response to an untimely wholesale bill from an incumbent LEC. Accurate and timely wholesale bills in both retail and BOS BDT format thus represent a crucial component of OSS.³

CLECs, MCI included, raised numerous billing accuracy issues in opposing SBC's Section 271 applications across the SBC territory. While the FCC ultimately approved SBC's in-region long distance entry, the FCC commissioners did note that their support was conditioned on SBC and state regulators keeping commitments to improve performance in this and other areas. Commissioner Jonathan Adelstein said this explicitly in his separate statement on the FCC's Oct. 15, 2003 approval of SBC's Indiana, Illinois, Ohio and Wisconsin applications, in which he noted that he based his support there and the earlier "Michigan Section 271 order in part on the commitment of SBC and my state commission colleagues to continue to develop and enhance the billing and line splitting processes."⁴

Although advising the FCC and state regulators that it was working on billing issues, SBC has only agreed to a handful of billing metrics, the best of which (covering Billing Claims Resolution, or "BCR") SBC has rendered effectively null by imposing an exclusion over which SBC has full and exclusive control -- the number of rejected bill

³ *Verizon Pennsylvania 271 Order*, ¶ 23 (citations omitted).

adjustment requests. If SBC rejects a high number of CLEC claims (and denial is generally SBC's first response to *any* claim, based on a review of the SBC-provided statistics submitted in the last six month review disputed issues filing), the CLEC does not receive any remedies for late resolution of claims.

Of the billing metrics, few would generate remedies right away if CLECs do not prevail on the issues raised as a result of the second six month review disputed issues proceeding. Critically, SBC refuses to implement many of the metrics that would proactively promote accurate billing and demonstrate the scope of the existing billing problem, or at least refuses to do so absent also implementing exclusions that would emasculate the metrics. For instance, SBC's proposal to adopt the SBC California billing accuracy metric (PM 34) might have been an acceptable alternative to adopting the billing accuracy metrics as MCI and TDS Metrocom had proposed them. However, SBC also wanted to add a slew of exclusions to the California metric, including the exclusion of any adjustments that arise out of settlements of claims related to billing errors. MCI's experience is that SBC generally initially rejects most disputes,⁵ forcing MCI to escalate them, after which SBC and MCI settle at a portion of the amount disputed (rarely all). Thus, the vast majority of MCI's billing adjustments would fall in the excluded settlements category. Settling for a portion of the monies that CLECs believe they are being overcharged is often preferable to lengthy and delayed litigation with a company with virtually unlimited legal resources. Yet, SBC's proposed replacement for PM 14,

⁴ See FCC October 15, 2003 Order in WC Docket No. 03-167, *In Matter of Joint Application by SBC Communications, Inc., for Provision of In-Region InterLATA Service in Illinois, Indiana, Ohio and Wisconsin*. ("IL/IN/OH/WI 271 Order").

⁵ MCI has detailed many of the improper rejection tactics SBC uses in MCI filings and in the collaborative discussions in PSCW Docket 6720-TI-183.

while an improvement over the old metric *if* implemented in the form adopted in California, would be rendered useless by the exclusions SBC proposes to add.

The Commission should require SBC to adopt either MCI's metric proposal (attached hereto as **Exhibit 3**), which captures untimely *and* inaccurate bill adjustments, or TDS Metrocom's proposed metric that focuses on billing adjustments. At the very least, the Commission should require SBC to adopt the California version of PM 34 to replace SBC's existing PM 14 metric without the excessive exclusions that SBC wishes to add. SBC should only be allowed to modify California PM 34 to reflect differing systems and a benchmark standard. Attached hereto as **Exhibit 4** is the California metric with only benchmark modifications, and without SBC's improper exclusions. Given the seriousness and prevalence of billing problems, MCI proposes that the remedies be set at high.

Disputed Issue 11: Addition of a performance measure to assess Repeat Billing Disputes.

TDS Metrocom proposal. SBC Midwest opposes the implementation of a performance measure for Repeat Billing Disputes.

MCI does not oppose TDS' effort to address the situation in which CLECs have to press the same issue over and over again, sometimes even when a prior dispute on the same subject has been resolved in their favor. MCI did not raise this issue only because it had other issues of even more critical import to pursue in this dispute process for which it could not rely on other CLECs to provide input to the Commission.

Disputed Issue 12: Addition of a performance measure to assess Back Billing.

TDS Metrocom proposal. SBC Midwest opposes the implementation of a performance measure for Back Billing.

MCI agrees with TDS that excessive back billing can impede a CLEC's ability to monitor the accuracy of its bills. In particular, researching source activity for back billed non-recurring charges ("NRCs") can be extremely labor-intensive, creating a resource drain on CLECs that is just as onerous, if not more so, than auditing *current* bills for accuracy. MCI had proposed a combined back billing and bill adjustment capturing metric in the latest six month review collaboratives. If the Commission resolves Disputed Issue 10 by adopting TDS's bill adjustment only, or a benchmarked version of California PM 34 without the SBC-proposed exclusions that defeat the metric's goal, MCI believes that the instant metric proposed by TDS is also necessary to address the burdens that excessive back billing imposes upon CLECs.

Disputed Issue 13: Addition of a performance measure to assess Billing Disputes Finalized in 90 Days.

McLeodUSA proposal. SBC Midwest opposes the implementation of a performance measure for Billing Disputes Finalized.

MCI agrees with McLeod that this metric is needed to ensure that those billing claims denied by SBC and then escalated by the CLEC do not hang in perpetual limbo. This metric would be very useful to show how, after initial escalation, billing claims are still not fully and finally resolved as of 90 days from initial filing. MCI further believes that final resolution should include payment of interest and fulfillment of other contractual obligations in situations in which SBC has withheld credits that were legitimately due CLECs.

Disputed Issue 14: Addition of a performance measure to assess the Percent of Open SBC Midwest CLEC Impacting OSS System/Software Defect Reports (DRs) and Change Requests (CRs) Created Per DRs Resolved within “X” Days.

Choice One, MCI and McLeodUSA proposal is being carried to dispute by MCI. SBC Midwest opposes the implementation of a performance measure for DR/CR resolution timeliness.

MCI’s Discussion:

Perhaps rivaling the billing issues raised in state and federal 271 proceedings were the problems with SBC’s Change Management Processes (“CMPs”) for its Operational Support Systems (“OSS”). Although the FCC’s October 15, 2003 order approving SBC’s four-state 271 application did not find grounds to withhold Section 271 approval on the basis of SBC CMPs, the Commission did find as follows:

As we stated in the *SBC Michigan II Order*, although we find SBC’s performance to be adequate here, we believe it is essential that SBC follow through on its commitment to continue to improve its change management process and adherence. It is critical that SBC continue to work collaboratively with competitive LECs on the continued operation of the change management process. Failure to observe an effective change management process could lead to review by the relevant state commissions or enforcement action by this Commission in accordance with section 271(d)(6).⁶

CLECs are finding that SBC’s commitments regarding resolution of their issues about correction of software defects in a timely manner have not been met. New releases are so fraught with SBC-created errors that CLECs are reluctant to move to new, so-called “improved” software versions, fearing that they will not be able to retain the same types of functionality and be forced to develop workarounds that are not only inefficient, but may cause certain order activities to drop out of the metrics.⁷

⁶ See *IL/IN/OH/WI 271 Order* at ¶ 140.

⁷ CLECs are told to use the “project” field on an LSR to implement these workarounds to get orders through when software glitches on new releases affect placement of customer orders. CLECs expressed

Attached as **Exhibit 5** is the recent SBC defect report showing open defects (125 currently open), a significant portion of which have lingered since the August-December, 2003 time period. CLECs also experience numerous problems created by releases changed from a defect report to a change request. SBC will take an error caused by its new software release, which should be considered a defect report because it affected current CLEC ordering practices and abilities, and repackage it as a change request, which must be prioritized by CLECs and compete for space on some future release. However, these errors are not change requests, since CLECs are not requesting new functionalities, but are instead simply seeking the ability to continue to use the functionalities that were available *before* the new software release, but made unavailable due to SBC error. Moving legitimate defect reports to change requests leaves these problems to languish even longer than they do on the defect report. (See MCI's discussion of Disputed Issue 15 below).

CLECs have proposed intervals (*see, e.g.,* the ChoiceOne Change Request submitted last December and attached as **Exhibit 6** hereto) for software error defect resolution that are similar to those proposed in the metric they jointly proposed in the most recent SBC six month review. Only one conference call, which ended abruptly without progress, has been held on this issue since that time. SBC has hardly made this important request a priority, promising just this week (as this filing was due) to get back to addressing this issue "soon," but not on a date certain.

Even if SBC does agree to placing these intervals and limiting its practice of converting legitimate Defect Reports into Change Requests, a metric such as that

concern and belief that this would make the LSR activity a project that gets excluded from the metric but has not received a written answer from SBC to date that this is not the case.

proposed by the CLECs (*see* **Exhibit 7** attached hereto) is needed to ensure that these commitments are kept. This is such a major problem that the Commission should impose large Tier II remedies if Defect Reports are not addressed within the deadlines proposed by CLECs. The per occurrence remedies should be applied by each day late in meeting the deadline, and should be \$300 per day for the first 10 days. Furthermore, the remedies should double after that 10-day period, as a large number of CLECs are inconvenienced by the workarounds required by the defect barrages that occur after each new release. In addition, those CLECs who forego new releases because they are fearful of new release defect report disruptions lose the advantages of new software versions in their efforts to avoid technical issues down the road.

Disputed Issue 15: Addition of a performance measure to assess the Percent of Change Requests Implemented Within 60 Weeks of Prioritization.

MCI proposal. SBC Midwest opposes the implementation of a performance measure for Percent CRs Implemented.

MCI's Discussion:

MCI is pressing for implementation of this metric (attached as **Exhibit 8**), similar to one the Florida PSC imposed on BellSouth, in order to speed SBC's extremely slow implementation of CLEC change requests to add functionality and make OSS systems more efficient and responsive to CLEC needs. SBC has not shown any improvement in this area since its Midwest 271 applications were granted.

In fact, SBC has taken up most of the space on its latest release with Triennial Review Order-related changes that it wanted to rush to implement, ignoring those which the CLEC community had given high priority. This tardiness in implementing CLEC-requested change requests in favor of SBC's own agenda has only gotten worse since 271

approval was granted, and SBC has not lived up to any of the change control commitments it made to the states or the FCC. Metrics and remedies are needed to enforce the critical change management metrics proposed by CLECs in this forum.

B. Billing Performance Measurements Disputed Issues.

Disputed Billing PM Issue 1: Application of Remedies and Performance Standard for PM BLG-2.

MCI's Discussion:

With PM BLG-2, the parties have agreed that SBC must track the time within which a CLEC billing claim dispute is acknowledged by SBC with 5 business days of receipt. However, this PM does not have a benchmark performance measurement, nor are any remedies associated with this PM. MCI believes it is important for the acknowledgement of the claim to be received within the specified period 95% of the time. Without such acknowledgement, a CLEC does not know if its claim is being worked or whether there is more information needed for the claim to be worked. As with the other performance measurements, SBC should be given incentives to improve its performance, which is the point of remedy payments. CLEC billing issues are of critical importance, and SBC should be held to a standard for acknowledging the receipt of billing claims so that the process will move along expeditiously.

Disputed Billing PM Issue 2: Period in which no remedies apply for PM BLG-3.

MCI's Discussion:

PM BLG-3 establishes a benchmark of 95% for resolution of billing claims within 30 business days of receipt. However, the application of remedy payments for SBC's

failure to meet this standard has been deferred for 6 months. MCI disagrees that there should be a 6 month deferral of the application of remedies to this diagnostic.

As the FCC and state 271 proceedings have shown, CLECs have run into numerous billing errors in the SBC Midwest region, and this is not a new problem. At the very least, there should be some immediate incentive for SBC to promptly resolve billing claims for errors the CLECs find themselves. Responding to billing claims is not a new service or process, but it is one where old policies and procedures have been lacking. There is no reason to wait to apply remedies that require SBC to resolve a claim in 30 days. Even if the claim is a denial, having that denial in hand promptly (and hopefully with enough information to understand the denial) will help the CLEC move on to escalate the problems to executives, arbitrators or state regulators if it believes its claim still is just. Remedies should be applied at the highest level and no cap available in the plan because, while this metric does not provide an incentive for SBC to send out accurate bills in the first place, it does encourage it to respond to CLEC claims in a timely manner with either (1) an agreement to credit bills and when or (2) a clearly explained denial for the CLEC to escalate if it disagrees.

Disputed Billing PM Issue 3: **Exclusion of CLECs with 30% or more claim line items denied from Tier 1 remedies for the BLG-3 metric.**

MCI's Discussion:

MCI opposes SBC's proposal to exclude from Tier I remedies any CLEC that has had more than 30% of the line items on its claim denied for three months in a row.

MCI's experience in all ILEC regions is that most initial claims are denied and then have

to be escalated, some times even for years, until a settlement is reached. This provision leaves entirely in SBC's control whether it pays any Tier I payments at all. For example, by simply delaying the final resolution of a billing dispute for a period of months, SBC could necessarily ensure that a CLEC would fail the 30% standard since SBC's front line billing dispute personnel would continue to deny a CLEC's disputes on that open issue for a period of months.

Even with a reconciliation function, SBC and the CLEC likely will remain at a standoff as to whether the claim was valid or not. Section 7.2 of SBC's remedy plans cover waivers for CLEC-caused misses of metrics. Notwithstanding this protection mechanism, SBC has insisted upon proposing an exclusion that will result in the CLECs fighting each month over whether the claim was legitimate or not. Verizon and BellSouth have similar processes for dealing with CLEC-caused misses where the facts are aired. However, these ILECS have no such exclusion for denied claims written directly into similar metrics. The whole point of the FCC's desire to see self-effecting remedies support 271 applications was to ensure that CLECs were not burdened litigating with the ILEC for every remedy. In fact, among the criteria the FCC has used in judging whether remedy plans are adequate in 271 proceedings are that the plan include a "self-executing mechanism that does not leave the door open unreasonably to litigation and appeal." [Paragraph 433, *In re Application of Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in New York*, CC Docket No. 99-295, Memorandum Opinion and Order, ¶ 12 (rel. Dec. 22, 1999)].

The accuracy of SBC's rejection of claims that are used in determining whether Tier I remedies are applicable would not be picked up in the third party audits that are part of the SBC performance plan. If SBC believes that a CLEC is abusing the claims adjustment process then it can bring its case to this Commission and seek a waiver or adjustment of the remedies it believes were paid because of this abuse. The CLECs have absolutely no incentive to file false billing claims, and therefore the burden should not be placed on the CLECs to prove that their claims were valid in the first place. SBC has never provided any plausible reason why CLECs would go to the considerable trouble of filing a claim on the off chance that it might not be able to resolve them fast enough to meet the metric deadline.

In fact, MCI is more concerned that SBC will be apt to reject billing claims to meet the 30 day deadline if it has not finished analyzing the claim in time. That is why MCI has proposed that, just as BellSouth does, SBC should report the number of claims denied for CLEC aggregate and individual CLECs each month so that regulators and CLECs can monitor whether claims seem inordinately high.

SBC's proposal creates an even greater incentive for SBC to deny billing disputes so that CLECs become disqualified for remedy payments that would otherwise be owed. Even third-party audits would not be a protection. It would be easy for a third party audit to count the number of rejections, but such an audit would never provide an opinion on whether the rejections were legitimate.

Disputed Billing PM Issue 4: CLEC proposal for addition of a measure to assess the timeliness of Post-to-Bill notification, with a 95% in 5 days benchmark, and remedies, and no deletion of current PM 17.

MCI's Discussion:

Billing completion notices ("BCNs") are an electronic notice sent by SBC to the CLEC notifying the CLEC when billing account information is updated. Timely receipt of this notice is crucial for the ability of CLECs to properly bill their customers. When billing does not commence until the month after a CLEC places an order, it may have to accrue these amounts at year-end – a financial disadvantage that can have considerable competitive impact.

MCI proposes that SBC implement the same Performance Measurement No. 17.1 standard that SBC Southwest implemented in Texas – 95% performance within 5 days. (SBC Southwest's Texas measurement is Exhibit 9). Thus, it is proposed that BCNs should be sent within five days of being updated. (See MCI proposal, which is Exhibit 10). SBC has not agreed to this proposal and instead insists that, based on its own internal data, the best it can do in Wisconsin is 95% within 10 days.⁸ SBC's inability to agree to the Texas PM 17.1 standard in Wisconsin suggests that the fundamental problems in SBC Midwest's billing systems may somehow be linked to the legacy Ameritech billing system -- ACIS -- and that these problems were not resolved by the ACIS-CABS reconciliation.

SBC's proposal, however, calls for use of a benchmark that no other Bell Operating Company ("RBOC") uses. In fact, the *longest* interval used by other RBOCs is 5 days. Other ILECs, notably Verizon and Qwest, provide BCNs in two days.

⁸ In performance measure workshops, SBC has explained that the antiquated billing process it uses in the former Ameritech states -- ACIS -- has a process of closing an order and sending the order completion to CABS that takes several days. Each step required to move a completed order in ACIS to a billing completion notice from CABS is done via a batch process, which is completed only once per day. Moreover, an error free order will take at least five days to generate a billing completion notice, and there are several steps in the process that can generate errors, which must be manually corrected. Those corrected orders are then sent back through the batch process.

(Verizon's and QWEST's performance measurements are provided together in Exhibit 11).

The five-day BCN benchmark sought here is very conservative, given SBC's own voluntary agreement to use an *identical* time frame in Texas. SBC certainly should not be held to such an extraordinary low standard as it proposes here. The CLECs need to know their orders have closed in billing so SBC can stop billing, and they can start billing and resolving their customers' problems. As noted above, the 10 day interval proposed by SBC is totally unacceptable to the CLEC, but even at 10 days it appears that SBC would fail this metric. This impacts the customer with double billing, and MCI by adding to the inaccuracy of its carrier bills. In fact the interval is so long, it appears to be causing SBC to fail a billing completeness metric (PM 17) where it has a whole month to get the change on the next bill. CLECs should not be penalized because SBC designed a process that adds an extremely long period from when the service is added to, changed or deleted, to when such changes are reflected in its final bill and in the CLEC's new bill to the customer. Furthermore, without the timely BCN, CLECs do not know when the customer is theirs in order to handle that customer's maintenance and service questions.

MCI would not oppose eliminating PM 17 if three conditions are met: (1) A backbilling metric is implemented to get at the billing completeness issues as the CLECs had intended when proposing it years ago; (2) the above BCN timeliness metric is implemented; and (3) in order to apply remedies for the BCN timeliness metric, duration periods under the old PM 17 failures prior to implementation would be counted. In other words, if PM 17 was missed in April, May, June and July and then is replaced by the BCN timeliness metric, the remedy would be set at the duration level if the old PM 17

months of failure are included. SBC should not receive a windfall of starting at the base remedy again when the highest remedy level did not provide it with an incentive to shorten the interval between completion of the order activity to updating the billing systems. Its only incentive has been to try to soften the metric rather than fix the systems. MCI therefore respectfully requests that its proposed five-day benchmark be adopted.

Disputed Billing PM Issue 5: CLEC-proposal for addition of a diagnostic report (measure) on the percent of claims denied for CLEC aggregate/individual.

MCI's Discussion:

In conjunction with BLG-3, SBC needs to report on the number of claims it denies each month so that CLECs and regulators can more easily monitor whether this metric is providing an incentive for it to reject claims rather than research them as the former is faster. BST currently has this provision in its similar billing claims adjustment metric. Attached is a copy of the diagnostic measure that MCI believes is better to trigger closer review of raw data if the levels of rejection are extremely high for either the aggregate or the individual CLEC results or both. (See Exhibit 12).

This proposed diagnostic is necessary to make sure the new metrics do not become an incentive for SBC to deny billing claims to avoid the metric's deadline and reduce credited amounts in proposed BLG-3. Full and partially denied billing claims need to be monitored by the whole industry, not just by a specific CLEC, because SBC could argue that high levels of rejects for a particular CLEC is a quality issue. The MCI proposal is a diagnostic measure so it would not encourage CLECs to file more claims, but to continue to file claims where they believe are legitimate. CLECs judge audit

center performance by adjustments gained not numbers of claims filed. BST reports this as a diagnostic, and Verizon likely will report this as a diagnostic measure after NY PSC vote in August or September on consensus and nonconsensus issues.

Conclusion

For all of these reasons cited above, MCI respectfully urges the Commission to resolve the disputed issues as discussed above.

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